Why Hate Shouldn't be a Crime

The passage of C-250 in the Canadian Parliament this spring pushed hate crime legislation to new extremes. Can one be against hate crimes, yet still oppose hate crime laws? Here are three good reasons we must resist this trend.

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I was introduced to the concept of hate crimes like most Americans, from the front page of the morning paper. When I began reading the details of the story I was sickened. By the time I finished the account in the LA Times, I wanted to cry.

In Laramie, Wyoming, a homosexual student from the university there had been brutally beaten, robbed, and tied to a wooden ranch fence. He was found unconscious by a man on a bicycle who first thought he was a scarecrow.

The police arrested two men and two women in connection with the attack. The men allegedly lured their victim from the Fireside Bar, a campus hangout, by telling him they were gay. They drove in a truck to a remote spot and beat the young man mercilessly. His skull was smashed with a handgun. His hands and face were cut and his body was burned. Strung up on the fence, he was exposed overnight to 30 degree temperatures. His life was hanging by a thread. A few days later, at a hospital in Fort Collins Colorado, 22-year-old Matthew Shepard died.

Since this brutal murder in Wyoming in 1998, the effort to pass hate crime legislation with expanded language to include "sexual preference" has shifted into overdrive. In spite of its proper intent to curb these attacks, such legislation is ill conceived.

I am against hate crimes, but I also am against hate crime laws for three reasons. First, they criminalize thought, not behavior. Second, they do not protect individuals, but rather select classes of people. Third, they actually encourage hostility towards one group of people, Christians.

Criminal Thought

George Orwell once said that sometimes the first duty of a responsible person is to restate the obvious. Note the obvious: Hate crime laws criminalize thought, not conduct. Assault is already punishable under existing statutes. This legislation levies an additional penalty solely for the attitude of heart: a motive called hate.

One of our most cherished freedoms is the liberty to think as we see fit, even if our thoughts are ignoble. A man's inner life has been his own. His conduct was under jurisdiction of the law, but not his convictions. Thoughts could not be made criminal.
Until recently, the law has been completely uninterested in penalizing motive. Whether one was driven to commit a crime by greed, malice, love, or hate was irrelevant. Only the conduct mattered. As far as the law was concerned, one could believe as he wished. He could like or dislike according to his whim. He could love or hate as he pleased.

Hate crime legislation changes all that. Now motive as well as conduct can be punished. This is a frightening step. "At the end of the day," wrote former ambassador Alan Keyes, "government can govern men's actions; it cannot govern their hearts. And when it attempts to govern their hearts, that is simply an excuse for the worst kind of tyranny."

Keyes' remarks are not mere hyperbole. In April, by a vote of 59 to 11, the Canadian Parliament passed bill C-250 criminalizing the expression of "hate" for homosexuality. The text reads:

Every one who, by communicating statements, other than in private conversation, willfully promotes hatred against any identifiable group is guilty of ... an indictable offense and is liable to imprisonment for a term not exceeding two years.

This is just the first step. Svend Robinson, the MP who authored C-250, wants the law to go beyond punishing incitement to hatred to criminalizing the anti-homosexual speech itself. It makes one wonder how an unfettered debate on same-sex marriage will be able to proceed ("All those opposed to same-sex marriage...you're under arrest").

The thin religious exemption included in C-250 gives Christians little cause for comfort. World magazine reports that...

...at least one Saskatchewan court has already held that certain Bible passages expose homosexuals to hatred. Even without C-250, London, Ontario, officials recently slapped a Christian mayor with a $10,000 fine for refusing to proclaim "Gay Pride Day." A Christian businessman in Toronto was fined $5,000 for refusing to print materials for a gay-rights group.

Hate crime legislation not only criminalizes thought and, in Canada, speech. It also creates another anomaly. Isn't it odd that, in this case, assaults animated by emotion are considered more abhorrent, not less? Generally, passion is a mitigating factor. Courts show lenience for crimes committed under its influence, reserving their greatest condemnation for calculated evil, thus the difference between first and second degree murder.

Hate crime legislation turns that equation on its head. Is a hit-man more noble because he lacks emotional connection to his victim? A person who commits a crime of passion is immoral, granted. But isn't it more twisted to assault, torment, or murder without any feeling of malice? Such a person is not just immoral, he's a monster.

Further, the present trend sometimes seems to make the motive more serious than the assault itself. Representative Barbara Cubin (R-Wyoming) said, "We will not stand for the arbitrary killing of other people due to any hateful act of intolerance." Los Angeles Mayor Richard Riordan said, "Angelinos have no tolerance for crimes motivated by hatred or bias of any kind." [emphasis added in both]

Why the qualifications? Why not say, "We will not stand for the killing of other people. Period." Or "Angelinos have no tolerance for crimes done for any reason"? The crime itself is reason to lament, but in these cases it's the motive that causes the outcry.

But it's worse than that. Hate crime legislation doesn't make all hate connected with assault illegal, only certain types of hate.

A Class Action
This is the second consequence of hate crime legislation. To paraphrase a line from George Orwell's Animal Farm, though all hate is equal, some hate is more equal than others.

Consider this. According to Webster's New World Dictionary, "Hate implies a feeling of great dislike or aversion, and, with persons as the object, connotes the bearing of malice." On this meaning, virtually any crime of passion could be construed as a hate crime because it entails malice towards persons.

However, all crimes of passion are not actionable as a hate crimes. Why not? Because they don't involve a protected class of people. This raises a question. Is hate crime legislation about hate per se or is it really about something else?

Columnist George Will observed that such laws mandate penalties for particular government-disapproved states of mind. He is only partially correct. The government is not as concerned with the hateful state of mind as it is with the particular group of people the hate is directed toward.

The result of criminalizing malice under certain circumstances is that only certain types of people get protected. Will observes, "Surely Shepard's assailants would deserve no less severity if he were not gay and their motive had been, as it may partly have been, pure sadism."

Yet this is not the case. In a state with hate crime legislation, penalties levied for an assault on me personally would be milder by statutory requirement than for the very same assault on a Matthew Shepard. Why? Because as a straight, white male I do not belong to a class protected by this law.

Hate crime legislation, then, turns out to be not really about hate, but politics. It's not hatred for the victim that is punished. That's covered under existing statutes. Rather, it's hatred for a protected class, African-Americans, Jews, homosexuals, etc. that's punished under hate crime laws.

Such legislation makes two crimes out of one. The murder is a crime against the victim. The hate is a crime against the victim's group. Yet how does one make sense of a crime against a group that is a different crime from the one against the victim?

Groups have no rights according to the Constitution. Only individual persons have rights (or groups that become legal persons, like corporations). Even class action lawsuits follow this pattern. Only individuals who are harmed can collect damages, even though their case is argued collectively.

Hate crime laws create a whole new category of faceless, personless victims, the injured class. They identify crimes against no one in particular, but crimes nonetheless, offenses that are punishable. They don't prohibit all hate, only politically incorrect hate.

A "Climate" of Hate

Just as these laws are used to defend certain classes of people, they can also be used to oppress a certain class of people. They can serve as a legal tool to enforce a particular moral and political point of view that goes by the misnomer of "tolerance." This is the third problem with hate crime legislation. It encourages many to actually blame Christians for incidents like the death of Matthew Shepard.

As soon as the terrible incident in Wyoming hit the national press, a torrent of criticism descended upon the Christian community.
Martin Marty, a prominent religious thinker from the University of Chicago, wrote that "anti-gay" Christians do not act in the name of Jesus. Rather, "Christian rhetoric...stirring hate" contributed to the death of Matthew Shepard. In the LA Times, Robert Scheer said, "Trafficking in the presumed judgments of the divine is a road map to the outer limits of civic intolerance."

These have joined a chorus of voices claiming that Christians, through their moralizing, are promoting a climate of hate. The phrase of choice is "less than." By claiming homosexuality is evil, Christians demote homosexuals to a "less than" status. If a homosexual is "less than," he is marked in a way that makes him an object of scorn, hatred, and physical abuse.

This is twisted logic. In Los Angeles, KABC talk show host Al Rantel, himself a homosexual, noted that this kind of thinking would make Alcoholics Anonymous responsible every time a drunk gets beat up in an alley. It simply does not follow that moral condemnation of homosexuality encourages gay bashing any more than condemning Christian "intolerance" promotes Christian bashing.

Such a tactic is equally dangerous to those who use it. According to them, taking a moral position is called hate. But objecting to hate is also a moral position. Are those who demonize Christians for their views equally guilty of hate-mongering? Clearly, this kind of attack is not really about principle, but politics once again.

Columnist John Leo has noted, "The political advantage of using 'climate' arguments is that you can discredit principled opposition without bothering to engage it. All you have to do is connect the pope, your local rabbi, or any other adversary to a gruesome murder, and your work is done."

Leo concludes, "Beware of arguments based on climates or atmospheres. Most of them are simply attempts to disparage opponents and squelch legitimate debate."

Hate crime legislation is not the answer. It turns the government into thought police, and turns the law into a club to enforce political correctness. Those felled by its blow will be Christians and others like them.

Instead, existing laws should be enforced to give equal protection to all classes of people, punishing the crime and not the frame of mind.

For Believers, though, there is a frame of mind that needs attention.

**Made in His Image**

Christians have an impulse to distance themselves from people like Matthew Shepard. Though his assault was lamentable, some have reasoned, he was, after all, a homosexual, evil and an abomination to God. Sporting signs with slogans like "Aids Cures Fags," they go public with their crusade by disrupting graveside ceremonies. This makes me want to weep.

There is no question in my mind that homosexuality is an egregious evil. Christians need to be reminded, however, that no matter how far we try to distance ourselves, we are more similar to Matthew Shepard than we are different from him.

There are at least two things each of us share with Matthew, maybe three. First, like us, Matthew Shepard is a human being made in the image of God. His value transcends whatever evil he may have been guilty of. This makes the brutal crime against him unconscionable.
Second, Matthew Shepard is fallen, as we are. We stand beside him in the dock, guilty of our own crimes against our Creator. Paul asks, "Are we better than they? Not at all, for we have already charged that both Jews and Greeks are all under sin."

Finally, for the homosexual that turns to Christ for forgiveness, we share the same Savior. Christ's blood was shed for us equally: "For the wages of sin is death, but the free gift of God is eternal life in Christ Jesus our Lord."

For these reasons all Christians should be grieved and angered at this injustice. They should condemn without qualification the brutalizing of Matthew Shepard, a human being who is, in all the important ways, just like us.

For the Kingdom,

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